

**§ 452.16 Offices which must be filled by election.**

Section 401 of the Act identifies the types of labor organizations whose officers must be elected and prescribes minimum standards and procedures for the conduct of such elections. Under that section officers of national or international labor organizations (except federations of such organizations), local labor organizations, and intermediate bodies such as general committees, system boards, joint boards, joint councils, conferences, certain districts, district councils and similar organizations must be elected.<sup>16</sup>

**§ 452.17 Officer.**

Section 3(n) of the Act defines the word "officer" and it is this definition which must be used as a guide in determining what particular positions in a labor organization are to be filled in the manner prescribed in the Act. For purposes of the Act, "officer" means "any constitutional officer, any person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization, and any member of its executive board or similar governing body."

**§ 452.18 Constitutional officers.**

A constitutional officer refers to a person holding a position identified as an officer by the constitution and bylaws of the labor organization. Thus, for example, a legislative representative of a labor organization who performs no executive functions and whose duties are confined to promoting the interests of members in legislative matters is nevertheless an officer who is required to be elected where the labor organization's constitution identifies the holder of such a position as an officer. On the other hand, legislative representatives who are required to be elected by the constitution and bylaws of a labor organization are not considered to be officers within the meaning of the Act if they are not des-

ignated as such by the constitution, are not members of any executive board or similar governing body, and do not perform executive functions. As defined in the Act, however, the term "officer" is not limited to individuals in positions identified as such or provided for in the constitution or other organic law of the labor organization.<sup>17</sup> The post of Honorary President, President Emeritus or Past President that is to be assumed by the retiring chief executive officer of a union would not be an officer position unless it is designated as an officer position by the union's constitution, or the holder of the position performs executive functions or serves on an executive board or similar governing body.

**§ 452.19 Executive functions.**

The definitional phrase "a person authorized to perform the functions of president, vice president, secretary, treasurer, or other executive functions of a labor organization" brings within the term "officer" any person who in fact has executive or policy-making authority or responsibility, although he may not occupy a position identified as an officer under the constitution and bylaws of the organization. Authorization to perform such functions need not be contained in any provision of the constitution or bylaws or other document but may be inferred from actual practices or conduct. On the other hand, a person is not an officer merely because he performs ministerial acts for a designated officer who alone has responsibility. The normal functions performed by business agents and shop stewards, such as soliciting memberships, presenting or negotiating employee grievances within the work place, and negotiating contracts are not "other executive functions" as that phrase is used in section 3(n) of the Act. However, a directing business representative or a business manager usually exercises such a degree of executive authority as to be considered an officer and, therefore, must be elected. The duties normally pertaining to

<sup>16</sup>See § 452.23 for a discussion of the frequency with which the different types of labor organizations must conduct elections of officers. See part 451 of this chapter for the scope of the term "labor organization."

<sup>17</sup>Cf. *NLRB v. Coca-Cola Bottling Co.*, 350 U.S. 264 (1956). See also, Daily Cong. Rec. 5867, Sen., Apr. 23, 1959.